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7 **ATTORNEYS FOR PLAINTIFF,**  
8 **THOMAS SPILSBURY, JR.,**

9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11 **SAN JOSE DIVISION**

12 **THOMAS SPILSBURY, JR.,**

13 **Plaintiff,**

14 **v.**

15 **TARGET CORPORATION, SELECT**  
16 **BRANDS, INC. and DOES 1 through**  
17 **25, inclusive,**

18 **Defendants.**

No. CV 09 05955 JW [HRL]

**STIPULATION AND ORDER RE:**  
**MOTION FOR SUMMARY JUDGMENT**  
**OPPOSITION AND REPLY FILING**  
**DEADLINES**

19 WHEREAS, on September 22, 2009, plaintiff filed a civil complaint in the  
20 Superior Court of California, Santa Clara County, which, on December 18, 2009, was  
21 removed by defendants to the Federal District Court for the Northern District of  
22 California. (Docket 1.)

23 WHEREAS, on May 12, 2010, this court issued a Scheduling Order that  
24 included a designated a discovery cutoff date of January 21, 2011. (Docket 36.)

25 Whereas, a motion for summary judgment was filed by defendants on  
26 November 10, 2010, with hearing thereof set for December 20, 2010. (Docket 39)

1 WHEREAS, on November 19, 2010, the court issued an order resetting the  
2 hearing of defendants motion for summary judgment to February 28, 2011, with  
3 plaintiff's opposition due by January 21, 2011, and any reply thereto due by February  
4 4, 2011. (Docket 51.)

5 WHEREAS, Plaintiff noticed PMQ depositions of Target Corporation and Select  
6 Brands, Inc., to be conducted January 19, 2011 and January 20, 2011, in Minneapolis,  
7 Minnesota, and Kansas City, Missouri, respectively;

8 Whereas, the PMQ depositions of Target Corporation and Select Brands  
9 Corporation may include testimony potentially relevant to plaintiff's opposition to  
10 defendant's motion for summary judgment. Said depositions will be completed on  
11 January 20, 2011, with plaintiffs' opposition to said motion currently due on or before  
12 January 21, 2011.

13 WHEREAS, the current filing deadlines for the opposition and reply to the  
14 motion for summary judgment are, respectively, 38 days and 24 days prior to the  
15 scheduled February 28, 2011, hearing, and, therefore, well in excess of the normal  
16 filing requirements set forth in Local Rules 56-1 and 7-3.

17 WHEREAS, there is no trial date currently set for this case, nor has this case  
18 been set for trial previously.

19 IT IS THEREFORE STIPULATED, AGREED AND JOINTLY REQUESTED by  
20 the parties, by and through their respective attorneys of record, that this court enter an  
21 order modifying the due dates for plaintiff's opposition to the motion for summary  
22 judgment and defendants' reply to said opposition as follows:

- 23 1) Plaintiff's opposition to the defendants' motion for summary judgment, currently  
24 due on or before January 21, 2011, shall be filed and served no later than  
25 **January 25, 2011;**
- 26 2) Defendants' reply to plaintiff's opposition to the defendants' motion for summary  
27 judgment, currently due on or before February 4, 2011, shall be filed and served  
28 no later than **February 8, 2011;**

1 3) The motion for summary judgment hearing date will remain on February 28,  
2 2011.

3 IT IS SO AGREED,

4 CORSIGLIA McMAHON & ALLARD, LLP


5  
6 January 18, 2011

By:   
TIMOTHY D. McMAHON  
Attorneys for Plaintiff

7  
8  
9 IT IS SO AGREED,

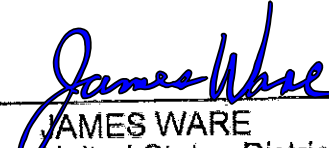
10 STONE & ASSOCIATES

11  
12 January 14, 2011

By:   
JULIET MACMILLIN LOMPA  
Attorneys for Defendants

13  
14  
15 PURSUANT TO STIPULATION, IT IS SO ORDERED,

16  
17 January 21, 2011

By:   
JAMES WARE  
United States District Chief Judge